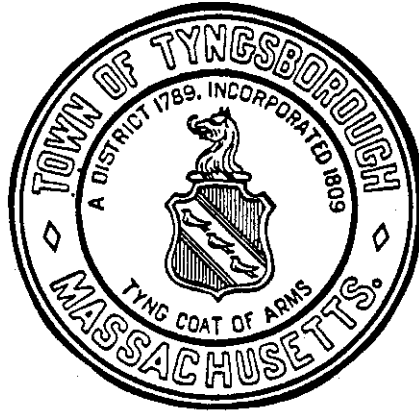


# **TYNGSBOROUGH PLANNING BOARD**



## **SPECIAL PERMIT RULES AND REGULATIONS**

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# PLANNING BOARD SPECIAL PERMIT RULES & REGULATIONS

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## PLANNING BOARD SPECIAL PERMIT RULES & REGULATIONS

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### I. GENERAL

The Tyngsborough Zoning By-Laws specify particular development activities in certain zoning districts in the Town which require a Special Permit from the Planning Board prior to construction. If, upon consulting with the Zoning By-Laws, a person determines that a Special Permit is required from the Planning Board then the procedures outlined in these Rules and Regulations shall be followed to apply for such a Special Permit from the Board.

Any person who desires to obtain a Special Permit from the Planning Board shall submit a written application (Form 1) accompanied by the information required by these Rules and Regulations and the Town of Tyngsborough Zoning By-Laws, as well as a certified list of parties in interest (Form 2), and a Designer's Certificate for the proposed plan (Form 3).

### II. MANDATORY FINDINGS

The Planning Board shall not issue a Special Permit unless, without exception, it shall find that the proposed use:

- A. is in harmony with the purpose and intent of the Zoning By-Laws;
- B. will not be detrimental or injurious to the neighborhood in which it is to be located;
- C. is appropriate for the site in question;
- D. complies with all applicable requirements of the Zoning By-Laws.

### III. QUORUM REQUIREMENT AND REQUIRED VOTE

All special permit hearings and meetings at which the Board renders a decision regarding a special permit application shall require a quorum of four members of the Board.

A special permit shall require a concurring vote of at least four members of the Board.

The record shall show the vote of each member upon each question, or if absent or failing to vote, indicate such fact. The Board shall set forth clearly the reason for its decision(s).

IV. APPLICATIONS

A. Forms

Every application for action by the Board shall be made on the official application (Form 1) including the Certified List of the Parties in Interest (Form 2) endorsed by the Assessor's office of Tyngsborough as well as the Designer's Certificate (Form 3) also (Form 5) is required if an engineering review will be conducted. Ten copies of such application form shall be submitted.

B. Plan of Land

Every application shall be accompanied by ten (10) copies of a professionally engineered and designed plan with the following:

- (1) \_\_\_\_ North Point
- (2) \_\_\_\_ Date
- (3) \_\_\_\_ Scale, 1"=40 feet
- (4) \_\_\_\_ Legend
- (5) \_\_\_\_ Plan name
- (6) \_\_\_\_ Index sheet, if needed
- (7) \_\_\_\_ Title block
- (8) \_\_\_\_ Name(s) and address(es) of record owner(s)
- (9) \_\_\_\_ Boundary of property which the application pertains to
- (10) \_\_\_\_ Zoning classification and zone boundaries, if passing through property
- (11) \_\_\_\_ Surveyor: name, address, signature, and seal
- (12) \_\_\_\_ Engineer: name, address, signature, and seal
- (13) \_\_\_\_ Locus Plan
- (14) \_\_\_\_ Names of abutters within 300' of the subject property
- (15) \_\_\_\_ Existing public ways within 300' of the subject property
- (16) \_\_\_\_ Tyngsborough Assessor's map and lot number for the property
- (17) \_\_\_\_ Existing topography of the property in two (2) foot contour intervals
- (18) \_\_\_\_ Proposed topography of the property after development in two (2) foot contour intervals
- (19) \_\_\_\_ Total lot area and net dry lot area for the property
- (20) \_\_\_\_ Easements on the subject property
- (21) \_\_\_\_ Location of all wetland areas on the property, as defined by MGL Chapter 131
- (22) \_\_\_\_ Location of base flood elevation, or if none exists, a statement to that effect
- (23) \_\_\_\_ Location, shape, and size of all existing and proposed buildings, septic systems, and private wells on the property or within 300' of the property line
- (24) \_\_\_\_ Location and definition of all major site features, such as rock formations, water courses, historical landmarks, and stone walls
- (25) \_\_\_\_ Location of existing and proposed underground utilities on the property
- (26) \_\_\_\_ Location of all existing and proposed storm water drainage systems pertaining to the property
- (27) \_\_\_\_ Detailed profiles of storm drainage system for the site

## PLANNING BOARD SPECIAL PERMIT RULES & REGULATIONS

- (28) \_\_\_\_ Lot frontage on a public way, lot width, front and side yard dimensions from the proposed buildings
- (29) \_\_\_\_ The precise location, dimensions and number of all proposed parking spaces
- (30) \_\_\_\_ Soil types on the property per the U.S. Soil Conservation Service detailed soil maps for the Town of Tyngsborough
- (31) \_\_\_\_ Detailed profiles of the entrances to the site from all public ways
- (32) \_\_\_\_ Detailed profiles of the proposed parking and driveway areas on the site including depth of gravel, pavement, and sloped granite curbing
  
- (33) \_\_\_\_ Delineation of site buffer/screening areas, including approximate location and number of vegetative plantings, solid brick, stone or wood fence, if required
- (34) \_\_\_\_ Details and location of all underground municipal water, or sewer systems or gas lines to service the site, if applicable
- (35) \_\_\_\_ Location of proposed stump and boulder burial area(s) on the site
- (36) \_\_\_\_ A Designer's Certificate for the plan (Form 3)
- (37) \_\_\_\_ Location, dimensions, and type of proposed signs for the site
- (38) \_\_\_\_ Location and shielding of proposed waste storage containment area
- (39) \_\_\_\_ Location of proposed fire lanes
- (40) \_\_\_\_ A building elevation plan where gross floor area is greater than 7,500 sq. ft., as per 1.16.22

### C. Supporting Information

1. Hydrological Calculations – A minimum of three (3) copies of hydrological calculations for the subject property in both the pre- and post- development states shall be filed with the application to the Board. The calculations shall demonstrate that the proposed drainage system will maintain or decrease the runoff rate from the pre-development to the post-development state for the 25 year storm event.
2. Landscape Plan – A landscape plan shall be prepared by a Registered Landscape Architect, as per sections 1.16.22 and 3.13 of the Tyngsborough Zoning By-Laws, if applicable.
3. Parking and Loading Area Calculations – A minimum of three (3) copies of calculations for proposed parking and loading areas demonstrating compliance with applicable regulations under Section 3.10 of the Tyngsborough Zoning By-Laws.
4. Traffic Study – If required according to the Tyngsborough Zoning By-Laws, a minimum of three (3) copies of a traffic study prepared by a qualified registered traffic engineer according to definitions and methods of estimation as outlined by the Transportation Research Board Highway Capacity Manual, Special Report #209, or later editions.
5. Environmental Protection - Information shall be submitted for major business or industrial site plans, as requested by the Planning Board, in order to demonstrate compliance with environmental protection standards outlined in Section 3.14 of the Tyngsborough Zoning By-Laws.

## PLANNING BOARD SPECIAL PERMIT RULES & REGULATIONS

### V. REPORTS FROM OTHER TOWN BOARDS OR AGENCIES

As required under the Tyngsborough Zoning By-Laws Section 1.16.12, the Planning Board shall transmit or cause to be transmitted a copy of the application and plan(s) to the other Boards and Departments, or committees, as it deems necessary. At a minimum, all applications for special permits shall be submitted to the Board of Selectmen, the Building Inspector, the Conservation Commission, and the Board of Health. Other referrals may involve, at the Board's discretion, the Police Chief, Fire Chief, Highway Department, Road Commission, Sewer Commission, Water Commission, or other Boards or agencies which the Planning Board deems to be necessary and in the best interest of the Town.

Any Board or agency to which special permit applications are referred for review shall make such recommendations or reports as they deem appropriate and shall send a copy to the Planning Board. Failure of any Board or agency to make a recommendation or submit a report within 35 days of receipt of the petition from the Planning Board shall be deemed a lack of opposition.

### VI. PUBLIC HEARING AND DECISION

The Planning Board shall hold a public hearing no later than 65 days after the filing of an application but no earlier than 35 days from the date of application filing if the Planning Board deems it advisable to have Boards or officials from the Town review the application prior to the hearing.

Notice of the public hearing shall be advertised as required under MGL Chapter 40A (each of two successive weeks; the first publication not less than 14 days prior to the hearing date). The notice shall also be posted in the Town Hall and shall be mailed postage prepaid to the applicant and to parties in interest (as provided in Form 2). Notice shall also be sent to abutting town Planning Boards and to other Boards and officials of Tyngsborough which the Planning Board deems appropriate.

The Planning Board shall issue a decision no later than 90 days following the close of the hearing. The Board shall outline its decision in detail whether approved, approved with conditions, or disapproved (Form 4) and shall file such decision with the Town Clerk, including a detailed record of its proceedings indicating the vote of each member upon each question, within fourteen (14) days of such decision. Notice of the decision shall also be mailed to the petitioner for the special permit, as well as to all parties in interest furnishing their name and address to the Planning Board at the close of public hearing, and to the Town Clerk, and the Building Inspector.

Failure of the Board to take final action upon a special application within 90 days following the close of the public hearing shall be deemed to be a grant of the permit applied for.

## PLANNING BOARD SPECIAL PERMIT RULES & REGULATIONS

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### A. Mandatory Conditions of Special Permit Decisions

1. Upon completion of the project, an "As-Built" will be submitted to the Planning Board for review and verification by the Planning Board Engineer prior to occupancy.
2. A mutually agreed upon site inspection schedule will be coordinated between the applicant, Planning Board Engineer and Planning Board office prior to construction commencement.
3. Approval is required prior to any deviation from the approved plan. Any and all deviations shall be submitted to the Planning Board in writing at a regularly scheduled meeting, for consideration of approval.

### VII. PERFORMANCE BONDS OR OTHER SECURITIES

The Planning Board may require, as a condition of the granting of a special permit, that a performance bond or other security, covenant, or agreement with the Town be established as it deems appropriate to protect the neighborhood and the interests of the Town.

### VIII. EFFECTIVE DATE OF SPECIAL PERMIT

No special permit, or renewal and extension shall take effect until a copy of the decision bearing the certification of the Town Clerk that twenty (20) days have elapsed after the decision has been filed in the office of the Town Clerk and no appeal has been filed, or if such appeal has been filed, that it has been dismissed or denied, is recorded in the North Middlesex Registry of Deeds. The fee and recording shall be the responsibility of the owner/applicant.

### IX. WITHDRAWAL

An application may be withdrawn without prejudice by the petitioner by notice in writing to the Planning Board at any time prior to the public hearing notice publication, but thereafter it can only be withdrawn with the approval of the Board.

### X. RECONSIDERATION

Once a decision has been voted by the Board and the meeting at which the decision was made is adjourned, there shall be no reconsideration of a decision by the Board.

## PLANNING BOARD SPECIAL PERMIT RULES & REGULATIONS

### XI. RE-APPLICATION

No appeal, application or petition which has been unfavorably and finally acted upon by the Board shall be acted favorably upon within two (2) years after the date of final unfavorable action unless the Board finds, by a vote of four members of the Board, specific and material changes in the conditions upon which the previous unfavorable action was based. The Board shall describe such changes in the record of its proceedings, after notice is given to parties of interest of the time and place of the proceedings when the question of such consent will be considered.

### XII. LIMITATION ON GRANTS

If an application is granted by the Board, construction or use shall be commenced within two (2) years or shorter period as specified by the Planning Board in its decision from the date of filing of the Board's decision in the office of the Town Clerk.

### XIII. FEE SCHEDULES

The applicant shall file, with the Planning Board, the fee listed below as appropriate to the Special Permit applied for. In addition, all fees associated with professional services of the Planning Board's engineer in review of the Special Permit application and plan shall be reimbursed in total to the Planning Board.

<u>Special Permit Application</u>	<u>Fee</u>
Site Plan Review	\$500
Business site plan (less than 3000 sq.ft.)	\$500
Industrial site plan (less than 15000 sq.ft.)	\$500
Major business use (greater than 3000 sq.ft.)	\$500
Major industrial use (greater than 15000 sq.ft.)	\$500
Multi-family dwellings (Condominiums, apartments)	\$100 + \$100/unit
Open space development	\$250 + \$100/unit

## PLANNING BOARD SPECIAL PERMIT RULES & REGULATIONS

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Flood Plain District	\$250
Permit Extensions	\$250
Temporary Independent Living Quarters (T.I.L.Q.)	\$200

### XIV. REFERENCES

General reference should be made by all applicants to the pertinent sections of the Commonwealth of Massachusetts General Law (MGL) Chapter 40A, otherwise known as the Zoning Act. Specific reference to and compliance with the Town of Tyngsborough Zoning By-Laws is also required. The Zoning By-Laws may be obtained from the office of the Town Clerk of Tyngsborough.

## APPENDIX

FORM 1: APPLICATION FOR SPECIAL PERMIT

FORM 2: SPECIAL PERMIT CERTIFIED LIST OF PARTIES OF INTEREST

FORM 3: DESIGNER'S CERTIFICATE

FORM 5: CONSULTANT RELEASE FORM



## FORM 1

### **Town of Tyngsborough** **PLANNING BOARD**

25 Bryants Lane,  
Tyngsborough, Massachusetts 01879-1003  
Planning Office: (978) 649-2300, Ext. 115 Fax: (978) 649-2301

### **APPLICATION FOR SPECIAL PERMIT**

#### NOTICE TO APPLICANT:

File one completed form with the Planning Board and an exact copy with the Town Clerk. Ten (10) copies of the plan for which a Special Permit is applied for shall be included with ten (10) copies of this application. Please ensure that all information required pursuant to the Town of Tyngsborough Zoning By-Laws has been included with this application. Lack of such required information filed with the application shall be considered an incomplete/invalid application.

#### TO THE PLANNING BOARD, TOWN OF TYNGSBOROUGH:

1. The undersigned, being the owner of land included on the attached plan entitled \_\_\_\_\_ and dated \_\_\_\_\_, submits this plan and application for a Special Permit according to the requirements of Section \_\_\_\_\_ of the Tyngsborough Zoning By-Laws.
2. The owner's title to the land is derived under deed from \_\_\_\_\_ dated \_\_\_\_\_, And recorded in Middlesex North Registry of Deeds, Quitclaim, Book \_\_\_\_\_, Page **OR** under Certificate of Title No. \_\_\_\_\_ registered in Middlesex Land Registry District Book \_\_\_\_\_, Page \_\_\_\_\_.
3. This application is filed in accordance with the Zoning By-Laws and the Rules and Regulations of the Planning Board regarding Special Permits.
4. This application is accompanied by the Certified List of Parties in Interest (Form 2), the Designer's Certificate (Form 3), and the application fee.

\_\_\_\_\_  
Applicant

\_\_\_\_\_  
Address, Phone

NOTE: This application is not deemed to have been submitted until the following endorsement has been completed by the Tyngsborough Planning Board and the Town Clerk.

Accepted this \_\_\_\_\_ day of \_\_\_\_\_, 20\_\_ as duly submitted under the Rules and Regulations for Special Permit Applications of the Tyngsborough Planning Board.

By: \_\_\_\_\_ (Town Clerk)

By: \_\_\_\_\_ (Planning Board)



## FORM 2

### **Town of Tyngsborough** **PLANNING BOARD**

25 Bryants Lane,  
Tyngsborough, Massachusetts 01879-1003

Planning Office: (978) 649-2300, Ext. 115

Fax: (978) 649-2301

### **SPECIAL PERMIT CERTIFIED LIST OF PARTIES IN INTEREST**

TO THE PLANNING BOARD OF THE TOWN OF TYNGSBOROUGH:

The undersigned, being an applicant for approval of a special permit for the land shown on Assessor's Map No. \_\_\_\_\_ as Lot No. \_\_\_\_\_ submits the attached list of parties in interest, including abutters to the subject property, owners of land within 300 feet of a boundary or part thereof, of the subject property, and owners of land directly opposite on any public or private street from the subject property. All parties of interest are listed as they appear in the most recent applicable tax list of Tyngsborough and abutting town, if any party of interest is located in another town.

\_\_\_\_\_  
Applicant

\_\_\_\_\_  
Address, Phone

Accepted by the Tyngsborough Planning Board \_\_\_\_\_, 20\_\_

TO THE PLANNING BOARD OF THE TOWN OF TYNGSBOROUGH:

This is to certify that at the time of the last taxation made by the Town of Tyngsborough, the names and addresses of the parties in interest to the subject property were as listed on the attached page(s).

\_\_\_\_\_  
Board of Assessors  
Town of Tyngsborough



## **FORM 3**

### **Town of Tyngsborough**

#### **PLANNING BOARD**

25 Bryants Lane,

Tyngsborough, Massachusetts 01879-1003

Planning Office: (978) 649-2300, Ext. 115

Fax: (978) 649-2301

### **DESIGNER'S CERTIFICATE**

\_\_\_\_\_, Massachusetts

\_\_\_\_\_, 20\_\_

TO THE TYNGSBOROUGH PLANNING BOARD:

I hereby certify that the accompanying plan, entitled \_\_\_\_\_  
\_\_\_\_\_ and dated \_\_\_\_\_, 20\_\_, is true  
and correct to the accuracy required by the Rules and Regulations of the Board regarding Special  
Permits and the Town of Tyngsborough Zoning By-Laws.

\_\_\_\_\_  
Registered Professional Engineer  
MASS. REGISTRATION NO. \_\_\_\_\_

\_\_\_\_\_  
Registered Land Surveyor  
MASS. REGISTRATION NO. \_\_\_\_\_

\_\_\_\_\_  
Address

Note: This Certificate is not deemed to have been submitted until the following endorsement has been  
completed by the Tyngsborough Planning Board or an authorized agent thereof:

Received and accepted this \_\_\_\_\_ day of \_\_\_\_\_, 20\_\_ as duly submitted under the  
Rules and Regulations of the Tyngsborough Planning Board regarding Special Permits.

TYNGSBOROUGH PLANNING BOARD

By \_\_\_\_\_



## FORM 5

### ***Town of Tyngsborough*** **PLANNING BOARD**

25 Bryants Lane,

Tyngsborough, Massachusetts 01879-1003

Planning Office: (978) 649-2300, Ext. 115

Fax: (978) 649-2301

### **CONSULTANT RELEASE FORM**

Date: \_\_\_\_\_

Project Name: \_\_\_\_\_

Project Location: \_\_\_\_\_

Applicant: \_\_\_\_\_

I, \_\_\_\_\_ (please print), agree to pay the cost and expense of any expert consultant deemed necessary by the Tyngsborough Planning Board to review the attached application. I understand that I may seek an administrative appeal from the selection of the outside consultant to the Board of Selectmen. The grounds for such appeals shall be limited to claims that the consultant selected has a conflict of interest or does not possess the minimum required qualifications.

I further agree to attach a **BANK CHECK** or **MONEY ORDER** made out to the Town of Tyngsborough Planning Board for \$2000.00 or such amount as determined appropriate by the Planning Board, to this form for the purpose of payment for the consultant review. If when completed, the consultant review costs are less than \$2000.00, I understand that I will be reimbursed for the balance of the \$2000.00. If the consultant review costs exceed \$2000.00, I understand that I will be billed for the balance of the review costs.

Amount: \_\_\_\_\_

Applicant's Signature: \_\_\_\_\_

Applicant's Company: \_\_\_\_\_

Applicant's Address: \_\_\_\_\_

Applicant's Telephone Number: \_\_\_\_\_

Property Owner's Name: \_\_\_\_\_